IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

Bail Appl..No. 3693 of 2007()

PETITIONER

BHOOPESH, S/O. BALAN, AGED 43 YEARS,
VELLANCHERRY HOUSE, NATTIKA P.O.,
THRISSUR DISTRICT.

BY ADV. SRI.V.M.KRISHNAKUMAR

RESPONDENTS: STATE & DEFACTO-COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
VALAPPAD POLICE STATION.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3693 OF 2007

Dated this the 20th day of June, 2007

ORDER

Application for anticipatory bail. The petitioner apprehends arrest on the allegation that the petitioner has abetted the death of one `Dinesh' – a friend of his. He committed suicide on 23/5/07. An F.I.R. has been registered and the investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent of the allegations levelled against him. The petitioner submits that the deceased Dinesh was a drunkard. He was being treated for mental ailment. The wife of the said Dinesh was working as a staff of the Bus Owners Association of which the petitioner is the Treasurer. The allegations do not at all indicate any act of abetment of suicide on the part of the petitioner. The proceedings against the petitioner are initiated vexatiously. The petitioner does

not deserve to suffer the trauma of arrest and incarceration. Baseless allegations are raised that the wife of the deceased and the petitioner had an affair and that acts of the petitioner had prompted the deceased to commit suicide. In any event, there is no incidents of abetment in law even alleged against the petitioner. In these circumstances, directions under Sec.438 of the Cr.P.C. may be issued, it is prayed.

3. The learned Public Prosecutor opposes the application. The suicide note has been brought to the notice of this Court in which the deceased has alleged that the petitioner is responsible for all his misfortune.

4. I have considered all the relevant inputs. I shall scrupulously avoid any detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. I take note of the submissions that the ingredients of the offence of abetment in law have not been alleged precisely against the petitioner. In any view of the matter, I am satisfied that this is a fit case where anticipatory bail can be granted to the petitioner subject to appropriate conditions to be imposed in the interests of fair, efficient and expeditious investigation. Directions under Sec.438 of the Cr.P.C. can be, in these

circumstances, issued in favour of the petitioner.

5. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 27/6/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 28/6/07 and 29/6/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Thereafter, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 27/6/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 27/6/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge